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Notice of Allowability	Application No.	Applicant(s)	
	09/787,171	SMITS, JAN F.A.	
	Examiner	Art Unit	
	Fenn C Mathew	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to _____.
2. ☒ The allowed claim(s) is/are 1,3 and 5-10.
3. ☒ The drawings filed on 14 March 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☒ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: Sweden 9803110-7.

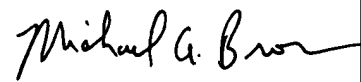
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

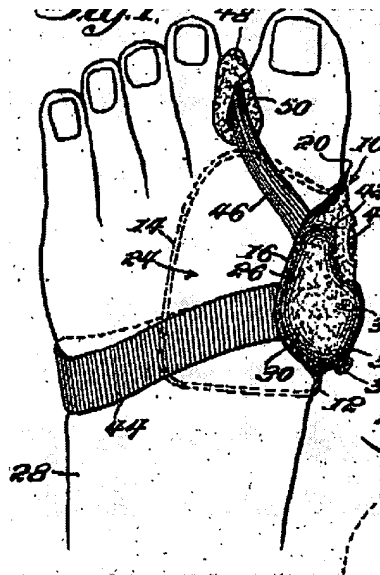
- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |


MICHAEL A. BROWN
PRIMARY EXAMINER

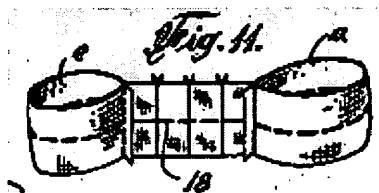
DETAILED ACTION

Allowable Subject Matter

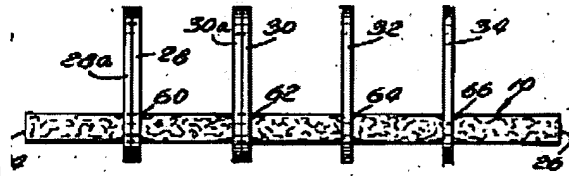
1. Claims 1, 3, and 5-10 are allowed. The following is an examiner's statement of reasons for allowance: Prior art devices to relieve abnormalities associated with hallux valgus are well known in the art. Day (U.S. 2,416,823) as pictured



teaches a brace comprising a three-point lever means providing three points of pressure, including a distal pad, a proximal pad, and a pad pressing on the ball of the foot. Day fails to teach or make obvious a lever arm pressing against the ball of the foot, nor the distal pad being disposed on an adjustable arm.

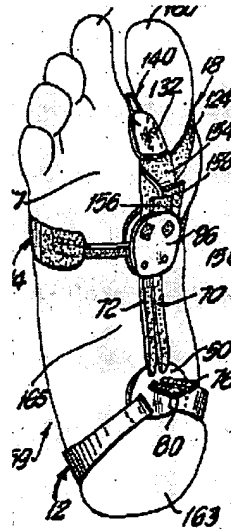


2. Patterson (U.S. 2,354,770) as pictured teaches a toe protector which presses on three points including the medial and distal phalanx as well as the ball of the foot. Patterson fails to teach or make obvious a lever arm pressing against the ball of the foot, nor the distal pad being disposed on an adjustable arm.



3. Kiwad (U.S. 2,531,851) as pictured

teaches a device comprising a three-point lever means capable of providing pressure to the medial and distal phalanx as well as the ball of the foot. Kiwad further teaches the brace substantially located under the toes, and located distally of the metatarsal joint. Kiwad fails to teach or make obvious the distal pad located on an adjustable lever.



4. Jungmann (U.S. 4,637,381) as pictured

teaches a foot brace, including a strap around the toe thereby providing a degree of pressure to the proximal and distal phalanx as well, as a pressure providing point on the ball of the foot. Jungmann fails to teach a distal and proximal pad, with the distal pad disposed on an adjustable arm.

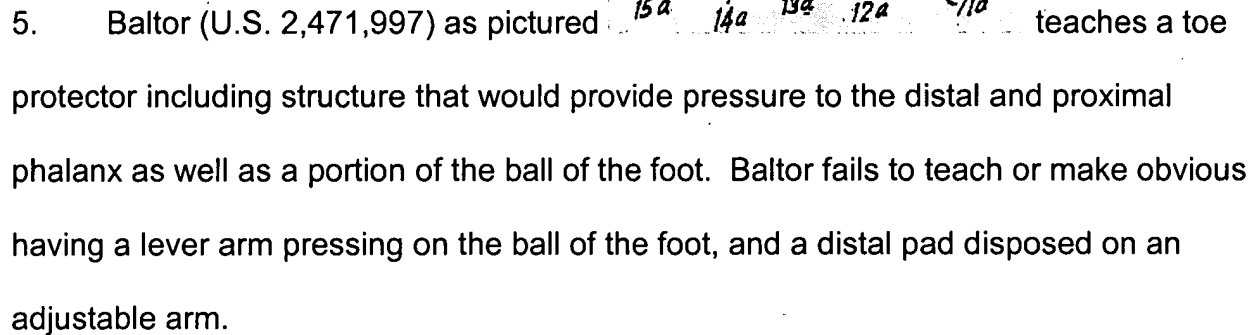
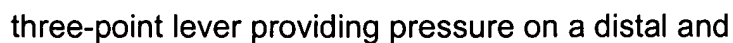
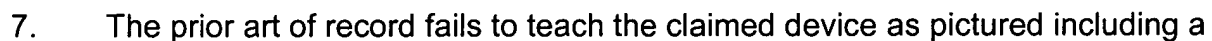


FIG. 6

discloses a distal pad adapted to provide pressure on the medial phalanx and mean to provide pressure to the ball of the foot. Kasahar fails to teach a proximal pad, or a lever arm capable of pressing the ball of the foot.



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proximal phalanx, with a proximal and distal pad, the distal pad disposed on an adjustable arm (5), and a lever arm (7) pressing on the ball of the foot.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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3/18/2005



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